

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

YAT MING WU,

Plaintiff,

v.

COUNTRYWIDE HOME LOANS,
INC., et al.,

Defendants.

2:12-CV-278 JCM (CWH)

ORDER

Presently before the court is defendants Bank of America (“BANA”) and Mortgage Electronic Systems (“MERS”) motion to dismiss and request to expunge lis pendens. (Doc. # 17).¹ To date, plaintiff Yat Ming Wu has failed to file an opposition.

I. Motion to dismiss

Pursuant to Local Rule 7-2(d), an opposing party’s failure to file a timely response to any motion constitutes the party’s consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing

¹ Defendants also filed a request for judicial notice (doc. # 18).

1 *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

2 The instant motion seeks dismissal of plaintiff's amended complaint. In light of plaintiff's
3 failure to respond, and weighing the factors identified in *Ghazali*, the court finds dismissal
4 appropriate.

5 **II. Expunge lis pendens**

6 Plaintiff filed a recorded a notice lis pendens against the real property on April 25, 2012.
7 (Doc. #10). The causes of action against defendants being dismissed, the lis pendens is no longer
8 necessary. In light of these facts and the plaintiff's failure to respond, the court finds it is
9 appropriate to expunge the lis pendens.

10 **III. Conclusion**

11 IT IS HEREBY ORDERED, ADJUDGED, AND that defendants Bank of America and
12 Mortgage Electronic Systems motion to dismiss (doc. # 17) be, and the same hereby is,
13 GRANTED. This case is hereby dismissed without prejudice.

14 IT IS FURTHER ORDERED that the lis pendens is canceled, released, and expunged.

15 IT IS FURTHER ORDERED that defendants record a properly certified copy of this
16 order in the real property records of Clark County, Nevada, within a reasonable amount of time
17 from the date of this order.

18 DATED March 1, 2013.

19
20 
21 UNITED STATES DISTRICT JUDGE